Remarks / Arguments & Status

The application presently contains the following claims:

Independent Claim #	*Dependent Claim #s*
1	2-7
8	9-14
15	16-20
21	22-26

Claims 1-12, 14-18 and 20 are amended. Claims 21-26 are newly added. Support for the newly added claims may be found with reference to the originally submitted figures and specification as originally filed. Support for the claim amendments are for purposes of clarity only, and support may be found with reference to the same sources identified for the new claims.

35 U.S.C. §102 Rejection & Responsive Arguments

The examiner has rejected claims 1-2 and 7 under this section, subparagraph (a) as being anticipated by "MGIC and M&I Become Major partners in E-Commerce Mortgage Services Company." Business Wire, New York; September 2, 1999 (hereinafter Editors; 3 pages).

Prior to rendering a response, it is important that the examiner gain the perspective of the industry from one of the inventors, a District Manager of a major mortgage lending institution, Tim Allen According to inventor Allen, the idea of determining the actual services of the mortgage, who can then acquire permission of a mortgage holder to retain the borrower was not common knowledge at the time of the instant invention, and is still not common knowledge today. Although on the surface it may appear that "AboutYourMortgage", the name of the product associated with the description found in the pending patent application, is doing the same sequence of operations as many other websites, in reality it is doing something quite different. AboutYourMortgage uses databases, not available to borrowers to connect them to mortgage servicers and *non-commissioned* consultants who have a vested interest in retaining that borrower in the servicing portfolio.

Below is the type mortgage modification the AboutYourMortgage patent application is referring to:

Loan modifications that change the basic terms of loans. Typically these involve conversion of adjustable-rate mortgages into more affordable fixed-rate loans, rolling all missed payments onto the existing loan balance, or lengthening the term of the mortgage itself, giving the borrower more years to pay off the debt [1]

Many websites on the Internet offer credit reports, refinancing, home equity loans and new mortgages. However, these sites are not sending borrowers back to their mortgage servicer who has a vested interest in retaining the customer to perform these services. Very often when borrowers call the lender listed on their credit report they are directed to a *commissioned* salesperson that is highly compensated <u>only if that borrower takes out a new mortgage.</u> AboutYourMortgage may start with a credit report but it continues from that point to determine who is actually servicing that mortgage and where it ultimately sends the borrower is to the mortgage servicer. The mortgage servicer has a vested interest in retaining that borrower's business and is usually not a commissioned salesperson. Even when the lender listed on the credit report is

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[1] Mortgage Servicers Help Avoid Foreclosures by Kenneth R. Harney, Saturday, December 24, 2005, attached hereto as Exhibit A

also the mortgage servicer, borrowers typically wrongly end up interacting with a commissioned loan specialist.

The mortgage servicer earns its money by collecting your payments, maintaining the records on your account and staying in touch with you on behalf of the lender or investor who owns your note. More important, in recent years the giants of the mortgage industry -- Freddie Mac, Fannie Mae and the government's largest home loan insurer, the Federal Housing Administration -- all have begun encouraging or requiring servicers to bend over backward to avoid foreclosures when borrowers fall behind [2]

As stated at the outset, the idea of determining the actual servicer of the mortgage who can then acquire permission to modify a mortgage to retain the borrower was not common knowledge at the time of this invention and is not common knowledge today.

Regarding the article "MGIC and M&I Become Major Players in e-Commerce Mortgage Services Company" & The Waybackmachine Article regarding MGIC's Customer Forever –The MGIG Customer Forever program is a proactive solution and begins with gathering statistical data to determine at risk borrowers who may pay off their mortgage early. It then provides those customers with a private-label Internet site where borrowers are informed of many things including refinancing opportunities with cost reduction opportunities It sounds similar on the surface to the goal of the instant patent application, but it is not.

AboutYourMortgage program is Reactive vs the MGIC Proactive solution. It does not use statistical data to determine borrowers at risk of paying a mortgage off earlier than its scheduled term. AboutYourMortgage finds borrowers who are surfing the Internet searching for mortgage opportunities, educates borrowers regarding the difference between mortgage lenders and mortgage servicers, then using a combination of credit report, questions to borrowers and utilization of a database not commonly available to borrowers, introduces the borrower to the mortgage servicer who can offer a variety of products to retain the borrower that that servicer has a vested interested in retaining. The customer retention products the servicer may offer the borrower include mortgage modification of existing mortgage, refinancing, home equity loans and purchase money loans often saving the borrower thousands of dollars by avoiding the commissioned salesperson employed by the lender.

AboutYourMortgage is reactive and finds customers who are on the Internet gathering mortgage information and redirects that customer by educating consumers to the benefits of staying with their present

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[2] Mortgage Servicers Help Avoid Foreclosures by Kenneth R. Harney, Saturday, December 24, 2005, attached hereto as Exhibit A

servicer, then determines who that servicer is and then provides a link to their current mortgage servicer, often saving unnecessary borrower and lender fees through mortgage modification.

A credit report alone does not inform borrowers as to exactly who services their mortgage, in fact, it more often misdirects consumers to commissioned sales professionals who are not acting in the best interest of either the borrower or the borrower's mortgage servicing institution.

35 U.S.C. §103 Rejection & Responsive Arguments

Claims 3-4, 8-11, 14-17 and 20 are rejected under this section, subparagraph (a) as being unpatentable over Editors (defined above) in view of Le ("Online Lenders Retool Strategy as Rates Climb – Home Refinancing Freeze Forces Forms to Hustle for First-Time Buyers." The Wall Street Journal. New York, NY, Feb. 28, 2000 pg 1) Additionally, claims 5-6 are also rejected under the combination of Editors in view of the Wayback Machine as defined by the examiner in his office action ("Wayback"). Further, claims 12-13 are rejected under the combinationo of Editors in view of Lee as appled to claim 8, and further in view of Wayback. And lastly, claims 18-19 stand rejected under the combination of Editors in view of Lee as applied to claim 15 and further in view of Wayback

Once again, as viewed by one of ordinary skill in the art, namely inventor Tim Allen, a District Manager of a major mortgage lending institution, the Lee article is speaking about mortgage refinancing, not mortgage modification. This is a fundamental difference, which may appear subtle, but in this industry, it is light years apart. Mortgage refinancing is actually a brand new loan from the perspective of the financing institution that is securing the refinancing customer. The old mortgage is paid off and a new mortgage is put into place. The institution that has secured this refinancing customer is the beneficiary of all resulting new loan fees, such as loan origination fees, and many others. This is not the subject of the instant patent application and for several reasons:

(1) The refinancing institution typically sells this mortgage to a mortgage servicing entity not associated with the refinancing institution, and therefore, the mortgage servicing entity has probably just lost the original borrower;

(2) A refinancing operation (completely new loan) is not a mortgage modification (which retains the old loan, but changes various terms); and

(3) A mortgage modification retains the borrower with the mortgage servicing institution.

With the Definitions provided below, AboutYourMortgage educates consumers then provides a link to their current mortgage servicer, often saving unnecessary consumer and lender fees through mortgage modification.

Borrower – the person or persons who have a mortgage debt.

Servicer: The institution that administers the collection of mortgage debt.

Lender: the Company often listed on the borrower's credit report that employees commissioned mortgage salespeople

Loan modification is not a refinance, it is a change to interest rate and/or payment requirements. A change in rates and payments does not result in the need for a new closing, legal fees, survey, appraisal, or taxes. In contrast, a refinance is a new mortgage and the borrower will need to pay a variety of fees and taxes that often costs thousands more than mortgage modification.

With a loan "modification" you take the mortgage you now have and change the interest rate and payment requirements -- just like an adjustable rate mortgage ("ARM") Just like an ARM, a change in rates and payments does not result in the need for a new closing, legal fees, survey, appraisal, or taxes. In contrast, if you "refinance" a loan you'll be required to have a closing and forced to pay a variety of fees and taxes.

Therefore, what has been shown is the following:

The typical Internet mortgage provider acts as the middle-man creating unnecessary commissions and third party fees that diminish the benefits of consumer refinancing

AboutYourMortgage saves the consumer hundreds or even thousands of dollars in refinancing fees utilizing mortgage modification options with their current mortgage holder.

AboutYourMortgage provides links to products home owners want: credit reports, bi-monthly payment programs, home equity loans, and other related services

AboutYourMortgage is not an Internet mortgage provider.

It is also important to note that unlike the Prior Art identified by the examiner, this process begins with the actual borrower, and not with a lending institution that is performing a statistical analysis upon its loan portfolio The subject of the instant patent application is borrower driven, not institution driven. This is a very important component in that it minimizes costs associated with any statistical analysis of large numbers of loan holders, many of whom are not at risk of doing any refinancing or mortgage modification. The instant patent application begins only when there is a potential for a borrower to be even contemplating a new financial transaction which may result in that borrower seeking a new mortgage or a mortgage with modified terms. This is the most cost-effective solution to the problem, and one which is completely unrecognized by any Prior Art brought to bear on the patentability of the instant application

Request for Reconsideration

Applicant believes that all independent claims clearly define over the prior art and that the distinctions between the present invention and the prior art would not have been obvious to one of ordinary skill in the art. Additionally, the remaining dependent claims, (including withdrawn dependent claims pursuant to the restriction and species election requirement) by the limitations contained in the base independent claims, are felt to be patentable over the prior art by virtue of their dependency from independent claims which distinguish over the prior art of record. All pending claims are thought to be allowable and reconsideration by the Examiner is respectfully requested.

It is respectfully submitted that no new additional searching will be required by the examiner.

Fee Determination Record

A fee determination sheet is attached for this amendment response. The Commissioner is hereby authorized to charge any additional fee required to effect the filing of this document to Account No. 50-0983.

Conclusion

It is respectfully submitted that all references identified by the examiner have been distinguished in a patentably novel and non-obvious way. If the examiner believes that a telephonic conversation would facilitate a resolution of any and/or all of the outstanding issues pending in this application, then such a call is cordially invited at the convenience of the examiner.

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Mortgage Servicers Help Avoid Foreclosures

By Kenneth R. Harney
Saturday, December 24, 2005; F01

What would happen if you got sick or suffered a drastic loss of household income, and then fell seriously behind on your mortgage payments?

Think about that, because none of us is immune from patches of rough luck. After two months of missed mortgage payments, your house could be well along on the icy slope to foreclosure. Do you have any idea how you would pull yourself out?

Before answering, consider this: New consumer research reveals that 61 percent of homeowners who fall behind on their payments have no clue about the foreclosure-avoidance options available to them. I'm not talking about hiring lawyers, filing for bankruptcy or turning over mortgages to con artists who claim they will solve all the problems if you will just give them the title to the house. I'm talking about the first and foremost go-to source for home loan delinquency relief: the mortgage company that services your account every month.

The servicer earns its money by collecting your payments, maintaining the records on your account and staying in touch with you on behalf of the lender or investor who owns your note. More important, in recent years the giants of the mortgage industry -- Freddie Mac, Fannie Mae and the government's largest home loan insurer, the Federal Housing Administration -- all have begun encouraging or requiring servicers to bend over backward to avoid foreclosures when borrowers fall behind.

They have done this in large part for business reasons: They lose tens of thousands of dollars on average with every foreclosure. But they have done it for social policy reasons, too. They recognize the disastrous personal and financial consequences that often accompany the loss of a home to foreclosure. If they can help homeowners keep a roof over their heads, they win and the homeowners win.

What are servicers doing? Their main techniques include:

Forbearance arrangements, in which mortgage companies allow borrowers to pay less than the full amount owed per month, or even pay nothing, depending upon the situation.

Reinstatements that allow delinquent homeowners to balance out their accounts with the mortgage company at some specified date, typically by paying a lump sum.

Repayment plans that allow partial contributions of arrears over an extended time, often as add-ons to the regular monthly payment.

Loan modifications that change the basic terms of loans. Typically these involve conversion of adjustable-rate mortgages into more affordable fixed-rate loans, rolling all missed payments onto the existing loan balance, or lengthening the term of the mortgage itself, giving the borrower more years to pay off the debt.

All those techniques have the same effect: Once a delinquent homeowner agrees to get involved, the foreclosure clock stops ticking. Freddie Mac says that from 2000 to 2004, more than 176,000 financially distressed homeowners managed to avoid foreclosure by signing up for one or another of these plans. Fannie Mae and the FHA confirm that thousands of their customers have done the same.

Yet survey research conducted by Freddie Mac and polling firm Roper Public Affairs found that the widespread availability of foreclosure-avoidance measures through servicers is a big secret to most homeowners. In a sample of 2,031 adult homeowners, the study found that many of them see no reason to expect help from mortgage companies when they miss payments.

Others say they wouldn't talk to a servicer because they're too embarrassed or scared. Nearly 1 out of 5 delinquent borrowers said they didn't contact their servicers because they figured they could solve their problems on their own. And 7 percent didn't get in touch because they didn't have the money on hand to make up the arrears.

But lack of cash on hand is precisely the reason to contact the mortgage company to see if things can be worked out. Otherwise this month's missed payment leads to next month's missed payment and pretty soon you're so far behind you might never catch up.

Foreclosure is no longer the inevitable result when a homeowner gets into financial distress. It's only inevitable in cases where income loss is so severe and so long term that no amount of workout, forbearance or rejiggering the note can save the house.

For all lesser financial jams, pick up the phone Call the servicer. Explain the problem and work it out into a win-win solution.

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